

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

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COMPETITIVE PRODUCT PRICES  
GLOBAL RESELLER EXPEDITED PACKAGE CONTRACTS 4  
(MC2014-38)  
NEGOTIATED SERVICE AGREEMENTS

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Docket No. CP2014-67

**NOTICE OF UNITED STATES POSTAL SERVICE RESPONSE  
TO COMMISSION REQUEST**  
(April 29, 2020)

On October 22, 2014, the Postal Regulatory Commission (Commission) issued Order No. 2222, approving Modification One to the specific agreement that is the subject of the instant docket (Agreement). In Order No. 2222, the Commission requested that the Postal Service provide cost, volume, and revenue data associated with the Agreement.<sup>1</sup> The agreement was terminated on March 31, 2020.<sup>2</sup>

In response to Order No. 2222, the Postal Service hereby provides cost, volume, and revenue data associated with the Agreement. The unredacted data is being filed separately under seal with the Commission. A redacted copy of the data is filed as Attachment 1 to this notice. With respect to the nonpublic version of the data that is filed under seal, the Postal Service hereby includes an Application for Non-Public Treatment as Attachment 2. The application protects from disclosure the information that has been redacted from the data.

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<sup>1</sup> Order No. 2222, Order Approving Modification to Global Reseller Expedited Package Contract 4 Negotiated Service Agreement, Docket No. CP2014-67, October 22, 2014, at 4.

<sup>2</sup> See Notice of the United States Postal Service of Filing Modification Three Terminating the Global Reseller Expedited Package Contracts 4 Negotiated Service Agreement, Docket No. CP2014-67, March 30, 2020.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Anthony F. Alverno  
Chief Counsel, Global Business  
Corporate and Postal Business Law Section

Christopher C. Meyerson  
Rebecca E. Brown  
Attorneys

Rebecca E. Brown  
475 L'Enfant Plaza, S.W.  
Washington, D.C. 20260-1137  
(202) 268-7820  
rebecca.e.brown@usps.gov  
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**Mailer : End of Contract Performance Report**  
**Summary Revenue, Volume, Weight and Cost for Contract Period**

Contract Name	Start Date	End Date	Docket Number	Revenue	Volume	Weight (lbs)	Cost	Coverage
			CP2014-67					

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## ATTACHMENT 2

### APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3011, the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed with the Commission in this docket concerning the cost, volume, and revenue data for a Global Reseller Expedited Package 4 (hereinafter “GREP 4”) contract.

The cost, volume, and revenue data for the contract that is the subject of this docket are being filed separately in this docket under seal with the Commission. A redacted copy of the cost, volume, and revenue data is filed as Attachment 1.

The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3011.201(b) below.

**(1) The rationale for claiming that the materials are non-public, including the specific statutory provision(s) supporting the claim, and an explanation justifying application of the provision(s) to the materials.**

Information of a commercial nature, which under good business practice would not be publicly disclosed, as well as third party business information, is not required to be disclosed to the public. 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(3) and (4). The Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A).<sup>1</sup> Because the portions of materials filed non-publicly in this docket fall

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<sup>1</sup> The Commission has indicated that “likely commercial injury” should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, March 20, 2009, at 11.

within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

**(2) A statement of whether the submitter, any person other than the submitter, or both have a proprietary interest in the information contained within the non-public materials, and the identification(s) specified in paragraphs (b)(2)(i) through (iii) of this section (whichever is applicable). For purposes of this paragraph, identification means the name, phone number, and email address of an individual.<sup>2</sup>**

Concerning this cost, volume, and revenue data for a GREP 4 contract, the Postal Service believes that persons other than the Postal Service with a proprietary interest contained within the materials would be the counterparty to the contract, the PC Postage Provider(s) (if the contract allows for and the customer intends to use a PC Postage Provider) and foreign postal operators.

The Postal Service maintains that customer identifying information should be withheld from public disclosure. Therefore, in compliance with 39 C.F.R. § 3011.200(b), rather than identifying the customer for the contract that is the subject of this docket, the Postal Service gives notice that it has already informed the customer, and the PC Postage Provider (if applicable), that have a proprietary interest in the materials for the contract that is the subject of this docket of the nature and scope of this filing and their ability to address their confidentiality concerns directly with the Commission.<sup>3</sup>

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<sup>2</sup> Section 3011.201(b)(2) further states the following:

(i) If the submitter has a proprietary interest in the information contained within the materials, identification of an individual designated by the submitter to accept actual notice of a motion related to the non-public materials or notice of the pendency of a subpoena or order requiring production of the materials.

(ii) If any person other than the submitter has a proprietary interest in the information contained within the materials, identification of each person who is known to have a proprietary interest in the information. If such an identification is sensitive or impracticable, an explanation shall be provided along with the identification of an individual designated by the submitter to provide notice to each affected person.

(iii) If both the submitter and any person other than the submitter have a proprietary interest in the information contained within the non-public materials, identification in accordance with both paragraphs (b)(2)(i) and (ii) of this section shall be provided. The submitter may designate the same individual to fulfill the requirements of paragraphs (b)(2)(i) and (ii) of this section.

<sup>3</sup> The Postal Service has provided a blanket notice to PC Postage Providers in light of the fact that these filings are fairly routine. To the extent required, the Postal Service seeks a waiver from having to provide each PC Postage Provider notice of this docket.

The Postal Service employee responsible for providing notice to the customer with proprietary interest in the materials filed in this docket is Ms. Amy E. Douvlos, Marketing Specialist, Global Business, United States Postal Service, 475 L'Enfant Plaza, SW, Room 5427, Washington, DC 20260-4017, whose email address is Amy.E.Douvlos@usps.gov, and whose telephone number is 202-268-3777.

As for foreign postal operators, the Postal Service provided notice to all foreign postal operators within the Universal Postal Union (UPU) network through an International Bureau Circular issued on December 9, 2019, that the Postal Service will be regularly submitting certain business information to the Commission. Some UPU designated foreign postal operators may have a proprietary interest in such information. The circular includes information on how third parties may address any confidentiality concerns with the Commission. In addition, contact information for all UPU Designated Operators is available at the following link, which is incorporated by reference into the instant application: [http://pls.upu.int/pls/ap/addr\\_public.display\\_addr?p\\_language=AN](http://pls.upu.int/pls/ap/addr_public.display_addr?p_language=AN).<sup>4</sup>

**(3) A description of the information contained within the materials claimed to be non-public in a manner that, without revealing the information at issue, would allow the Commission to thoroughly evaluate the basis for the claim that the information contained within the materials are non-public.**

In connection with its Notice filed by the Postal Service in this docket, the Postal Service included cost, volume, and revenue data for a GREP 4 contract. This data was filed under seal, with a redacted copy filed publicly, after notice to the customer.

With regard to the cost, volume, and revenue data, the redactions include the redaction of the postal patron whose identifying information may be withheld from mandatory public disclosure by virtue of 39 U.S.C. § 504(g)(1) and 39 U.S.C. § 410(c)(2).

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<sup>4</sup> To the extent required, the Postal Service seeks a waiver from having to provide each foreign postal operator notice of this docket. It is impractical to communicate with dozens of operators in multiple languages about this matter. Moreover, the volume of contracts would overwhelm both the Postal Service and the applicable foreign postal operators with boilerplate notices.

The redactions applied to the data protect commercially sensitive information such as cost, volume, and revenue data. To the extent practicable, the Postal Service has limited its redactions of the data to the actual information it has determined to be exempt from disclosure under 5 U.S.C. § 552(b).

**(4) Particular identification of the nature and extent of the harm alleged and the likelihood of each harm alleged to result from disclosure.**

If the portions of the data that the Postal Service determined to be protected from disclosure due to their commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. Revealing customer-identifying information would enable competitors to focus marketing efforts on current postal customers, undermining the efforts and resources that the Postal Service has invested in cultivating business relationships with these customers. The Postal Service considers that it is highly probable that if this information were made public, its competitors would take immediate advantage of it. The GREP competitive contracts include a provision allowing the Reseller to terminate its contract without cause by providing at least 30 days' notice. Therefore, there is a substantial likelihood of the Postal Service losing customers to a competitor that targets customers of the Postal Service with lower pricing.

The data filed with this notice include specific information such as cost, volume, and revenue data. All of this information is highly confidential in the business world. If this information were made public, the Postal Service's competitors would have the advantage of being able to determine the absolute floor for Postal Service pricing. Unlike its competitors, the Postal Service is required to demonstrate that each negotiated agreement within this group covers its attributable costs. Furthermore, the Postal Service's Governors have required that each contract be submitted to the

Commission with a notice that complies with 39 C.F.R. § 3035.105. Competitors could take advantage of the information to offer lower pricing to GREP competitive contract customers, while subsidizing any losses with profits from other customers. Eventually, this could freeze the Postal Service out of the relevant market. Given that these spreadsheets are filed in their native format, the Postal Service's assessment is that the likelihood that the information would be used in this way is great.

Potential customers could also deduce from this cost, volume and revenue data whether additional margin for net profit exists between the contract and the contribution that GREP competitive contracts must make. From this information, each customer could attempt to negotiate ever-increasing incentives, such that the Postal Service's ability to negotiate competitive yet financially sound rates would be compromised. Even customers involved in GREP competitive contracts could use the information in the workpapers, or the cost, volume and revenue data associated with the expired agreement, in an attempt to renegotiate their own rates, threatening to terminate their current agreements, although the Postal Service considers this to be less likely than the risks previously identified.

Information in the cost, volume and revenue data concerning this agreement also consists of sensitive commercial information related to agreements between the Postal Service and interested third parties. Such information would be extremely valuable to competitors of both the Postal Service and third parties. Using detailed information about such agreements, competitors would be able to better understand the counterparty's underlying costs, and identify areas where they could adapt their own operations to be more competitive. In addition, competitors of the counterparty could use such information to their advantage in negotiating the terms of their own agreements with the Postal Service.

**(5) At least one specific hypothetical, illustrative example of each alleged harm;**



Identified harm: Revealing customer identifying information would enable competitors to target the customers for sales and marketing purposes.

Hypothetical: The identity of the customer in this contract is revealed to the public.

Another delivery service has an employee monitoring the filing of GREP contracts and passing along the information to its sales function. The competitor's sales representatives could quickly contact the Postal Service's customer and offer the customer lower rates or other incentives to terminate its contract with the Postal Service in favor of using the competitor's services.

Identified harm: Public disclosure of information in the data would be used by the competitors of the third party to the detriment of the Postal Service and/or the counterparty to the agreement.

Hypothetical: A firm competing with the interested third party obtains a copy of the unredacted version of the data from the Commission's website. The firm uses the information to assess the third party's revenue sources and growth opportunities, and thereby develop benchmarks for competitive alternatives. In addition, disclosure of such information could provide leverage to other parties in their negotiations with the Postal Service concerning financial arrangements that they may make with the Postal Service in the future.

Identified harm: Public disclosure of the cost, volume and revenue data concerning this agreement would give competitors a marketing advantage.

Hypothetical: A competitor could use any cost, volume and revenue data associated

with this agreement to “qualify” potential customers. The competitor might focus its marketing efforts only on customers that have a certain mailing profile, and use information filed after the contract’s expiration to determine whether a customer met that profile.

**(6) The extent of the protection from public disclosure alleged to be necessary.**

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant markets, including parcel and expedited services, as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for this or similar products should not be provided access to the non-public materials.

**(7) The length of time for which non-public treatment is alleged to be necessary with justification thereof;**

The Commission’s regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless otherwise provided by the Commission. 39 C.F.R. § 3011.401(a). However, because Postal Service relationships with customers may continue for years or decades, the Postal Service intends to oppose requests for disclosure of these materials pursuant to 39 C.F.R. § 3011.401(b-c).

**(8) Any other factors or reasons relevant to support the application.**

None.

***Conclusion***

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.